

BRONSON LAW OFFICES PC
Attorneys for Debtor-in-Possession
480 Mamaroneck Ave.
Harrison, NY 10528
(914) 269-2530
H. Bruce Bronson

Hearing Date: January 14, 2015
Hearing Time: 10:00 AM

UNITED STATE BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In Re:

Case No. 14-22798

John Ricci-Breen and Margaret Ricci-Breen, Chapter 11
Debtors, **REPLY**

-----X
**REPLY TO OBJECTION OF PNC BANK TO THE DEBTORS' MOTIN TO AVOID
LIEN**

H. Bruce Bronson on behalf of the debtors, John Ricci-Breen and Margaret Ricci-Breen (the "Debtors") hereby state:

BACKGROUND

1. The Debtors filed a Motion to Avoid Second Mortgage Lien Held by PNC Bank, N.A. ("PNC") on October 28, 2014 (the "Pond Motion"), based on two appraisals from reputable appraisers finding the value of the subject residence located at 81 Poplar Road, Briarcliff Manor, NY 10510 (the "Property") to be \$400,000 and \$390,000 respectively.
2. The Proof of Claim filed by Bank of America as to the first mortgage claims the amount owing to be \$429,736.93 (the "First Mortgage").
3. On November 14, 2014, PNC through its counsel filed an objection to the Pond Motion (the "Objection") which included an appraisal from Independent Settlement Services of Orange California ("PNC's Appraisal") estimating the value at \$440,000.

4. PNC's Appraisal was conducted with the cooperation of the debtors and access was granted to the premises.

REPLY

5. It is asserted that PNC's Appraisal did not take into account the repairs that would be necessary for the Property to have a value in excess of \$400,000, and be in saleable condition.

6. The debtors have obtained an Estimate of Repairs & Renovations to Residence from NASCO Construction Services Inc., Armonk, NY 10504 ("NASCO") that the PNC Appraisal did not fully take into account (Exhibit A-Estimate of Repairs & Renovations to Residence").

7. While not all of the work estimated for repair would be necessary to increase the value of the Property beyond the \$400,000 range, the estimate provides a more detailed analysis, by a contractor that would actually be in a position to perform the required corrections to the Property.

8. The PNC Appraisal lists only a small fraction of the repairs that would be necessary, and does not place a dollar value on these repairs. Accordingly, it is submitted that there is at least \$15,000 of absolutely necessary repairs that were not taken into account by the PNC Appraisal.

CONCLUSION

9. The debtors have submitted two appraisals performed by local reputable Appraisers that are significantly less than the PNC Appraisal and the outstanding amount of the First Mortgage. Accordingly, the PNC Appraisal showing a value a mere \$11,000

higher than the First Mortgage should be discounted and debtors Pond Motion should be granted.

Dated: Harrison, NY
January 7, 2015

Bronson Law Offices, P.C.

/s/H. Bruce Bronson

H. Bruce Bronson

Bronson Law Offices, P.C.

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Harrison, NY 10528

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Exhibit A

**NASCO
CONSTRUCTION SERVICES INC.**

SUBJECT: COVER PAGE
PROJECT: RENOVATIONS TO RESIDENCE
LOCATION: 81 POPLAR ROAD, BRIARCLIFF MANOR, NY 10510
TYPE EST.: COST TO RENOVATE
CLIENT: JOHN RICCI

EST. NO: 4-0282
EST. BY: FL
CHKD. BY: EH
DATE: 12-09-14
REV. DATE:

ESTIMATE OF REPAIRS & RENOVATIONS TO RESIDENCE:

PREPARED FOR:

MR. JOHN RICCI

81 POPLAR ROAD
BRIARCLIFF MANOR, NY 10510

PREPARED BY:

NASCO CONSTRUCTION SERVICES INC.

200 BUSINESS PARK DRIVE, SUIT 302
ARMONK, NY 10504

OFFICE # (914)765-0984

FAX# (914)765-0538

WWW.NASCO-NY.COM

**NASCO
CONSTRUCTION SERVICES INC.**

SUBJECT: GENERAL NOTES & QUALIFICATIONS
PROJECT: RENOVATIONS TO RESIDENCE
LOCATION: 81 POPLAR ROAD, BRIARCLIFF MANOR, NY 10510
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TOTAL RENOVATION COST

\$205,600

1. ALL PRICES ARE BASED ON NOVEMBER 2014 UNION/PREVAILING WAGE CONSTRUCTION COSTS
2. THE FOLLOWING ITEMS ARE NOT INCLUDED:
 - a) PROFESSIONAL FEES
 - b) FURNITURE, FURNISHINGS AND MOVABLE EQUIPMENT
 - c) CONSTRUCTION CONTINGENCY COSTS
 - d) PERMITS & FEES
3. SUMMARY OF WORK TO BE COMPLETED:
 - 1) REMOVE & REPLACE ALL GUTTERS, LEADERS & ROTTED FASCIA BOARD
 - 2) REMOVE AND REPLACE GARAGE AND BREEZE WAY ROOFING
 - 3) REMOVE & REPLACE INCORRECTLY INSTALLED BRICK VENEER PANELING INCLUDING WATER DAMAGED SHEATHING
 - 4) COMPLETE ALL FINISH FLOORING, BASEBOARDS, AND TRIMS IN NEW ADDITION.
 - 5) REMOVE AND REPLACE ROTTEN WOOD DEC, STAIRS AND RAILINGS AT REAR OF HOUSE
 - 6) REMOVE AND REPLACE REAR PATIO DOOR.
 - 7) REMOVE AND REPLACE CELLAR HOPPER WINDOWS
 - 8) COMPLETE ALL INSULATION AND DRYWALL WITHIN NEW ADDITION.
 - 9) INSTALL (2) NEW ATTIC STAIRS.
 - 10) INSTALL LATTICE AT REAR ADDITION.
 - 11) INSTALL CEMENT BOARD ENCLOSURE AT FRONT ADDITION
 - 12) REMOVE AND REPLACE CELLAR SLABS
 - 13) WATER PROOF EXISTING FOUNDATION WALLS INCLUDING NEW SUMP PUMP
 - 14) REPLACE HEAVED DRIVEWAY IN ITS ENTIRETY.
 - 15) COMPLETE ALL ELECTRICAL WIRING, AND FIRE ALARM DEVICES WITHIN NEW ADDITION.
 - 16) REMOVE AND REPLACE ALL DUCTLESS A/C UNITS AND CONDENSERS INCLUDING ASSOCIATED PIPING & WIRING.
 - 17) PAINT/STAIN ALL NEW TRIM WORK, CEILINGS, WALLS, DOORS, WINDOWS AND DECK.
 - 18) INSTALL NEW CAST IRON RADIATORS IN NEW ADDITION AND REPAIR BOILER AS REQUIRED INCLUDING NEW CONTROLS.

**NASCO
CONSTRUCTION SERVICES INC.**

SUBJECT: SUMMARY - ALL TRADES
PROJECT: RENOVATIONS TO RESIDENCE
LOCATION: 81 POPLAR ROAD, BRIARCLIFF MANOR, NY 10510
TYPE EST.: COST TO RENOVATE
CLIENT: JOHN RICCI

EST. NO: 4-0282
EST. BY: FL
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ITEM	DESCRIPTION	AMOUNT	
1.00	GENERAL REQUIREMENTS	\$19,285.00	
2.00	SITEWORK		
	DEMOLITION/EARTHWORK	\$10,658.00	
	SITE IMPROVEMENTS	\$17,300.00	
	ASBESTOS ABATEMENT	\$10,500	
3.00	CONCRETE	\$6,429	
4.00	MASONRY	\$14,792	
5.00	METALS	N/A	
6.00	WOODS & PLASTICS	\$31,551	
7.00	THERMAL & MOISTURE PROTECTION	\$30,060	
8.00	DOORS AND WINDOWS	\$6,050	
9.00	FINISHES	\$6,356	
10.00	SPECIALTIES	N/A	
11.00	EQUIPMENT	N/A	
12.00	PLUMBING	\$9,840	
14.00	H.V.A.C.	\$21,700	
15.00	ELECTRICAL	\$7,600	
SUBTOTAL			\$192,121
G.C. OH & P - 7.0%			\$13,479
TOTAL COST			\$205,600

**NASCO
CONSTRUCTION SERVICES INC.**

SUBJECT: GENERAL CONSTRUCTION - ALL TRADES
PROJECT: RENOVATIONS TO RESIDENCE
LOCATION: 81 POPLAR ROAD, BRIARCLIFF MANOR, NY 10510
TYPE EST.: COST TO RENOVATE
CLIENT: JOHN RICCI

EST. NO: 4-0282
EST. BY: FL
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DATE: 12-09-14
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ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	TOTAL
1.00	<u>GENERAL REQUIREMENTS</u>					
	a. Supervision - Part time - 2 hrs/Day	6	WKS	1,500.00	9,000	
	b. Laborer - 1 Day/Week	48	HRS	90.00	4,320	
	c. Dumpspters - 30 YD	2	EA	750.00	1,500	
	d. Renew Building Permits	1	LS	1,000.00	1,000	
	e. Misc. Protective Materials	1	LS	750.00	750	
	f. Insurance - 1.5% of Construction Cost	1	LS	2,715.00	2,715	
						19,285
2.00	<u>SITWORK</u>					
	<u>DEMOLITION</u>					
	a. Remove Brick Veneer	400	SF	5.00	2,000	
	b. Remove Roofing & Sheathing	1,540	SF	1.00	1,540	
	c. Remove Fascia Boards	160	LF	3.00	480	
	d. Remove Gutters & Leaders	212	LF	1.00	212	
	e. Remove Water Damaged Exterior Sheathing	400	SF	2.00	800	
	f. Remove Existing Entry Door & Transom	1	LS	750.00	750	
	g. Remove Basement Slab	404	SF	3.00	1,212	
	h. Remove Rotted Basement Stairs	1	FLT	150.00	150	
	i. Remove Rotted Rear Stairs & Railings	1	LS	350.00	350	
	j. Remove & Salvage Front Portico	1	LS	1,500.00	1,500	
	k. Remove Basement Windows	4	EA	75.00	300	
	l. Remove Broken Dining Room Window	1	EA	75.00	75	
	m. Remove Family Room French Doors	1	PR	150.00	150	
	n. Excavated for New Curtain Drains	12	CY	75.00	889	
	o. Remove Sump Pit Concrete	1	LS	250.00	250	
						\$ 10,658
	<u>SITE IMPROVEMENTS</u>					
	a. Resurface Driveway - 90' x 15'	150	SY	28.00	4,200	
	b. Divert Water From Adjacent School Property via perforated pipe, gravel and riprap tied to existing drainage basin	180	LF	70.00	12,600	
	c. Restore Topsoil & Seeding as Required	1	LS	500.00	500	
						\$ 17,300
	<u>ASBESTOS ABATEMENT</u>					
	a. Remove Asbestos Containing Pipe Insulation Throughout House	420	LF	25.00	10,500	
						\$ 10,500

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ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	TOTAL
3.	CONCRETE					
	a. New Basement Slab	404	SF	10.00	4,040	
	b. New Sump Pit Concrete	2	CY	350.00	700	
	c. Gravel @ Curtain Drain	9	CY	55.00	489	
	d. 6" Perforated PVC Curtain Drain Piping	80	LF	6.00	480	
	e. Repair Garage Floor	360	SF	2.00	720	
						\$ 6,429
4.	MASONRY					
	a. New Brick Veneer					
	.1 Material - Brick-it Quote	1	LS	5,612.00	5,612	
	.2 Labor - (3) Men x 3 Days	72	HRS	105.00	7,560	
	b. Cement Board w/ Parging & Foundation Walls	108	SF	15.00	1,620	
						\$ 14,792
5.	METALS	N/A				
6.	WOODS & PLASTICS					
	a. 2 X 4 Closet Framing	104	SF	4.00	416	
	b. New Hardwood Flooring	840	SF	8.00	6,720	
	c. Install By-Pass Closet Doors	2	EA	125.00	250	
	d. Furnish & Install Door & Window Trim	60	LF	6.00	360	
	e. Furnish & Install Window Sills	15	LF	15.00	225	
	f. 5/8" T&G Roof Sheathing	1,540	SF	2.00	3,080	
	g. Furnish & Install New Baseboards	130	LF	6.00	780	
	h. Install Attic Stairs	2	EA	125.00	250	
	i. New Rear Deck, Stair & Railings	1	LS	3,500.00	3,500	
	j. Install Garage Door	1	EA	500.00	500	
	k. Replace Water Damaged Wood Flooring in Family Room	320	SF	9.00	2,880	
	l. Install New Patio Door in Family Room	1	PR	500.00	500	
	m. Install Basement Windows	4	EA	125.00	500	
	n. Install dining room window	1	EA	125.00	125	
	o. New Fascia Boards	160	LF	5.00	800	
	p. New soffit Boards	160	LF	5.00	800	
	q. Bead Board Soffit @ Portico	15	SF	20.00	300	
	r. New Basement Stairs & Railings	39	RFT	35.00	1,365	
	s. New 5/8" Exterior Grade Sheathing	400	SF	2.00	800	
	t. Remove, Salvage & Re-Install Portico & Fascia Trims	48	HRS	125.00	6,000	
	u. Lattice Around Perimeter Foundation	250	SF	3.00	750	
	v. Closet Shelves & Poles	13	LF	50.00	650	
						\$ 31,551

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ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	TOTAL
7.	<u>THERMAL & MOISTURE PROTECTION</u>					
	a. Foundation Waterproofing	800	SF	15.00	12,000	
	b. Aluminum Fascia & Soffit Wraps	160	LF	10.00	1,600	
	c. New Asphalt Shingle roofing	1,540	SF	4.00	6,160	
	d. Flash Windows & Doors	10	LOC	150.00	1,500	
	e. Insulate Exterior Walls & Ceilings	1,720	SF	1.00	1,720	
	f. Replace Damaged Siding	400	SF	6.00	2,400	
	g. New Aluminum Gutters	212	LF	5.00	1,060	
	h. New Aluminum Leaders	60	LF	7.00	420	
	i. Air/Vapor Barrier @ Brick Veneer	400	SF	8.00	3,200	
						\$ 30,060
8.	<u>DOORS & WINDOWS</u>					
	a. New Basement Windows - 18" x 24"	4	EA	200.00	800	
	b. New French Patio Doors & Hardware - 6'- x 7'	1	PR	1,500.00	1,500	
	c. New Dining Room Window - 30" x 64"	1	EA	750.00	750	
	d. New Attic Pull Down Stairs	2	EA	700.00	1,400	
	e. New Garage Door w/ Opener - 10' x 8'	1	EA	1,800.00	1,800	
	f. New Bypass Closet Doors	2	PR	300.00	600	
						\$ 6,050
9.	<u>FINISHES</u>					
	a. New 5/8" Sheetrock - Taped & spackled	2,094	SF	2.40	5,026	
	b. Paint Walls & Ceilings	2,094	SF	1.50	3,141	
	c. Paint Interior Trims & Baseboards	205	LF	5.00	1,025	
	d. Paint Doors & Frames	8	LVS	125.00	1,000	
	e. Paint Portico Soffit & Trim	1	LS	750.00	750	
	f. Grout Master Bathroom Walls & Floors	4	HRS	110.00	440	
						\$ 6,356
10.	<u>SPECIALTIES</u>	N/A				
11.	<u>EQUIPMENT</u>	N/A				
12.	<u>PLUMBING</u>					
	a. Cast Iron Radiators	10	EA	250.00	2,500	
	b. 1/2" Pex Tubing Including Fittings	200	LF	2.50	500	
	c. Main Boiler Control Box	1	LS	500.00	500	
	d. Thermostat	1	EA	70.00	70	
	e. Sump Pump Connected to Sewer Main	1	EA	750.00	750	
	f. Labor - (2) Plumbers x 3 Days	48	HRS	115.00	5,520	
						\$ 9,840

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ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	TOTAL
13.	<u>HVAC</u>					
	a. Replace 24000 BTU Dual Zone 18 SEER Heat Pump Condensers	1	EA	4000.00	4,000	
	b. Replace 36000 BTU Dual Zone 16 SEER Heat Pump Condensers	1	EA	4500.00	4,500	
	c. Replace 9,000 BTU Cooling & 10,200 BTU Heating Ductless Split Indoor Units	4	EA	2,100.00	8,400	
	d. Replace 12,000 BTU Cooling & 13,500 BTU Heating Ductless Split Indoor Units	1	EA	2,300.00	2,300	
	e. Replace 18,500 BTU Cooling & 18,500 BTU Heating Ductless Split Indoor Units	1	EA	2,500.00	2,500	
						\$ 21,700
14.	<u>ELECTRIC</u>					
	a. Replace A/C Unit Wiring	8	EA	300.00	2,400	
	b. Complete Fire Alarm Devices	3	EA	150.00	450	
	c. New Radiant Heating Controls	1	LS	650.00	650	
	d. New Light Fixture Including Wiring	4	EA	450.00	1,800	
	e. New Receptacles & Switches	10	EA	200.00	2,000	
	f. Replace Sump Pump Wiring	1	EA	300.00	300	
						\$ 7,600